



Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Reiley

Examiner: D. Isabella

Serial No. : 10/067,137

Group Art Unit: 3738

Filed : 4 February 2002

For : Facet Arthroplasty Devices and Methods

**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

I, Daniel D. Ryan, Esq. (Registration Number Reg. No. 29,243), state that I am the attorney of record in the above identified patent application (which I will call the '137 Application). The '137 Application is a continuation-in-part of U.S. Application Serial No. 09/693,272, filed October 20, 2000, now U.S. Patent No. 6,610,091, which claims the benefit of provisional U.S. Application Serial No. 60/160,891, filed October 22, 1999.

I further state that Archus Orthopedics, Inc. is the assignee of 100% interest in the invention claimed and described in U.S. Patent 6,610,091 and the present '137 Application. The assignment of U.S. Application Serial No. 09/693,272 (now U.S. Patent 6,610,091) by the inventor to Total Facet Technologies, Inc. is recorded in the United States Patent Office on Reel/Frame 013749/0176. A Certificate of Amendment of Total Facet Technologies, Inc. changing its name to Archus Orthopedics, Inc. is recorded in the United States Patent Office on Reel/Frame 013755/0073. The assignment of the '137 Application by the inventor to Archus Orthopedics is recorded in United States Patent Office on Reel/Frame 012879/0949. As a result, U.S. Patent 6,610,091 and the present '137 Application are commonly owned by Archus Orthopedics, Inc.

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With respect to claims granted in the '137 Application, Archus Orthopedics, Inc. hereby disclaims the terminal part of any patent granted which would extend beyond the expiration date of the full statutory term of U.S. Patent 6,610,091.

Archus Orthopedics, Inc. hereby agrees that any patent granted on the '137 Application shall be enforceable only for and during such period that the legal title to such patent shall be the same as the legal title to U.S. Patent 6,610,091. This agreement shall run with any patent granted on the '137 Application and shall be binding upon the grantor, its successors, or assigns.

Archus Orthopedics, Inc. does not disclaim any terminal part of any patent granted on the '137 Application prior to the expiration date of the full statutory term of U.S. Patent 6,610,091 in the event that U.S. 6,610,091 later: (1) expires for failure to pay a maintenance fee; (2) is held unenforceable; (3) is found invalid; (4) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a); (5) has all claims canceled by a reexamination certificate; or (6) is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above.

Pursuant to 37 C.F.R. 3.73(b), I hereby state that the evidentiary documents accompanying or referred to in this Terminal Disclaimer have been reviewed by the undersigned, and it is certified that to the best of the assignee Archus Orthopedics, Inc's knowledge and belief, title is in the assignee. I also state that I am authorized by Archus Orthopedics, Inc. to make this Terminal Disclaimer on its behalf.



Archus Orthopedics, Inc.

By:
Daniel D. Ryan, Esq.
Registration Number 29,243
Attorney of Record